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Supreme Court, U. S.
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IN THE
SUPREME COURT OF THE UNITED STATES

ARTHUR TURCO, JR.,
Petitioner,

v.

MONROE COUNTY BAR ASSOCIATION
OF THE STATE OF NEW YORK,

Respondent.

BRIEF OF NATIONAL LAWYERS GUILD AS AMICUS CURIAE IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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INTEREST OF NATIONAL LAWYERS GUILD

The National Lawyers Guild is an association of lawyers, law students and legal workers that has been in existence for over thirty-eight years and has active chapters and thousands of members throughout the United States. The Guild, since its inception during the depths of

* Letters from the respective parties consenting to the submission of this amicus have been filed with the Clerk of this Court.

the depression, has sought to insure that all Americans, regardless of the type of work they do, the color of their skin, their religious preference, their place of national origin, or their political beliefs,receive their full and unabridged constitutional rights.

During this period of time Guild attorneys have been active in representing thousands of individuals who have espoused unpopular political points of view. Much of the legal work done for such individuals has been to insure them the rights to present their points of view and to protect them against illegal or unconstitutional actions on the part of individuals or governmental instrumentalities who sought to intimidate or silence them. That there have been many such illegal and unconstitutional actions

conducted by governmental agencies against political dissidents, including their attorneys in recent years, is public knowledge and is a shameful chapter in our country's history.

We are particularly interested in this case because it raises a fundamental question for our members and for all attorneys who either voluntarily undertake to represent the poor and the oppressed or who take such cases when assigned by a local Bar association.

ARTHUR F. TURCO, JR., the petitioner in this case, like so many other attorneys in the United States, commenced practicing the profession of law during the turbulent decade of the 1960's. During the course of practicing his profession, he represented civil rights and anti-war activists, often for no fee.

On two occasions, due to the nature of his legal work, he found himself the target of criminal proceedings. Throughout these proceedings, he vigorously professed his innocence. As explained in the Petition, he pled guilty on both occasions to misdemeanors with a strong insistence of his innocence and with the understanding that if charges were ever brought against him as to his fitness to practice law as a result of his convictions, he would have a full hearing where the facts and circumstances of his pleas of guilty could be explored.

Mr. TURCO's reputation as an advocate of the poor, the oppressed and the unpopular is well known; that he has been disbarred, without even a due process hearing by the Appellate Division has caused serious concern within the legal community.

The National Lawyers Guild has frequently submitted amicus briefs in similar cases where issues presented to the Court are of broad public importance.

REASONS FOR GRANTING THE WRIT

The history of this case is reviewed in detail in the main Petition; that statement is adopted herein.

Unless reviewed by this Court, the decision below seriously erodes basic constitutional rights that all citizens of our country enjoy and makes it extremely difficult for citizens who espouse politically unpopular points of view to obtain the effective assistance of counsel. United States v. Mitchell, 354 F.2d 767 (2nd Cir. 1966).

This Court has recognized on many occasions that the rights of our citizens to enjoy their property and their liberty

cannot be abridged without due process of law. It is a statement that all Americans are familiar with and which understandably gives them a sense of security that their rights will not be taken away in any arbitrary or capricious manner without their being afforded an opportunity to be heard and to participate fully in the deliberations. The right to participate in such deliberations is a fundamental right given by our Constitution to all citizens.

That ARTHUR F. TURCO, JR.'s right to practice law, to earn a livelihood in a profession for which he spent many years training, to provide financial support to his wife and two infant children and to represent persons who have politically unpopular points of view has been taken away without a scintilla of due process

outrages the very conscience of the legal community. Mr. TURCO pled guilty to two misdemeanors neither of which had anything to do whatsoever with his ability to function as an attorney.

In both cases, he pled guilty while vigorously protesting his innocence, a procedure clearly sanctioned by this Court in Alford v. North Carolina, 400 U.S. 25 (1970). The Petitioner had every right to expect that if any proceedings were commenced against him challenging his right to practice law, he would be afforded a due process hearing. In the instant case, he did not receive a fair hearing; in fact, he received no hearing at all.

This Court is the ultimate authority on the practice of law in our country. There are three basic areas which deal

with the control that the courts have over who practices law: admissions policies, the power of contempt and disbarment. During the last few years the Court has dealt with a number of cases involving admission policies and contempt. This case deals with disbarment. If the Court does not hear this case, then it might, unfortunately, be interpreted as a signal to others that the behavior of the Appellate Division with reference to Mr. TURCO is being condoned and that other jurisdictions may feel free to deal summarily with attorneys who represent clients with unpopular points of view.

CONCLUSION

For the reasons set forth herein, the writ of certiorari should be granted to review the judgment and opinion of the Appellate Division: Fourth Department of the Supreme Court of the State of New York.

Respectfully submitted,

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Dated: New York, New York
June 16, 1975

CERTIFICATE OF SERVICE

This is to certify that three (3) copies of the foregoing Brief of the National Lawyers Guild as Amicus Curiae have been served by mail, postage prepaid, this 16th day of June, 1975 upon the following:

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